

TITLE 33
ENVIRONMENTAL QUALITY
PART I. OFFICE OF THE SECRETARY
SUBPART 2. NOTIFICATION
CHAPTER 39. NOTIFICATION REGULATIONS AND PROCEDURES FOR UNAUTHORIZED
DISCHARGES

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Subchapter A. General

§3901. Authority

- A. Regulations for reporting unauthorized discharges or spills are hereby established by the Department of Environmental Quality by order of the administrative authority and pursuant to R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C) and 2204(A).

§3903. Purpose

- A. The purposes of these regulations are as follows:
1. to protect the health and well-being of the people of the state of Louisiana and to prevent and mitigate damage to property or to the environment due to unauthorized discharges of pollutants to land, water, or air;
 2. to provide a uniform notification and reporting procedure for unauthorized discharges by any person;
 3. to enable appropriate emergency response to unauthorized discharge incidents; and
 4. to provide the department with the discharge information that may be used to insure compliance with permit terms and conditions.

§3905. Definitions

- A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Administrative Authority—the secretary of the Department of Environmental Quality or his designee or the appropriate assistant secretary or his designee.

Air Contaminant—particulate matter, dust, fumes, gas, mist, smoke, or vapor, or any combination thereof produced by other than natural processes.

Barrel—a 42-gallon measure.

By-Pass—a diversion of a waste stream from any portion of a conveyance or treatment facility.

Department—the Department of Environmental Quality.

Discharge—the placing, releasing, spilling, percolating, draining, pumping, leaking, mixing, leaching, migrating, seeping, emitting, disposing, by-passing, or other escaping of pollutants on or into the air, waters of the state, or the ground. A release shall not include a federal or state permitted release.

Discharger—a facility, plant, company, site, person or its representatives, agents or employees, which discharge pollutants.

Division—the appropriate division within the Department of Environmental Quality.

DPS—the Department of Public Safety; the State Police.

Emergency Condition—any condition which could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the land, water or air environment, or cause severe damage to property.

Emission—a discharge of air contaminants into the outdoor atmosphere.

Facility—a pollution source, or any public or private property or site where an activity is conducted, which is required to be regulated under Subtitle II of Title 30 and does or has the potential to do any of the following:

1. emit air contaminants into the atmosphere;
2. discharge pollutants into waters of the state;
3. use or control radioactive materials and waste;
4. transport, process, and/or dispose of solid wastes; or
5. generate, transport, treat, store, or dispose of hazardous wastes.

Groundwater—water in the saturated zone beneath the land surface.

Groundwater Contamination—the degradation of naturally occurring groundwater quality either directly or indirectly as a result of human activities.

Hotline—24-hour Louisiana Emergency Hazardous Materials Hotline.

Immediately—a reasonable period of time after taking prompt measures to determine the nature, quantity, and potential off-site impact of a release, considering the exigency of the circumstances.

Leachate—a liquid that has passed through or emerged from solid waste and may contain soluble, suspended, or miscible materials removed from such wastes.

Migrating—any movement by leaching, spilling, discharging, or any other uncontained or uncontrolled manner, except as permitted by law or other regulations of the department.

Oil—any of numerous smooth, greasy, combustible hydrocarbons that are liquid or at least easily liquefiable on warming, are soluble in ether but not in water, including but not limited to crude oil, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

Permit or *License*—written authorization by the administrative authority to discharge, emit, treat, store and/or dispose of liquid, gaseous, semi-solid, or solid waste or reusable materials, or radioactive material from or at a site or facility, including all conditions set forth therein.

Person—any individual, municipality, public or private corporation, partnership, firm, the United States government and any agent or subdivision thereof, or any other juridical person, which shall include, but not be limited to, trusts, joint stock companies, associations, the state of Louisiana, political subdivisions of the state of Louisiana, commissions, and interstate bodies.

Pollutant—any substance introduced into the environment of the state by any means that would tend to degrade the chemical, physical, biological, or radiological integrity of such environment.

Pollution Source—the immediate site or location of a discharge or potential discharge, including such surrounding property or water body necessary to quarantine the area or secure from access by the general public.

Produced Water—includes liquids and suspended particulate matter that is obtained by processing fluids brought to the surface in conjunction with the recovery of oil and gas from underground geologic formations, with underground storage of hydrocarbons, or with solution mining of brine.

Radiation—any electromagnetic or ionizing radiation including gamma rays and x-rays; alpha and beta particles; high-speed electrons, neutrons, protons, and other nuclear particles; but not sound waves.

Radioactive By-Product Material—any radioactive material (except special nuclear material) yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

Radioactive Material—any material, whether solid, liquid, or gas, which emits radiation spontaneously.

Radionuclide—a radioactive species of an atom characterized by the constitution of its nucleus.

Release—the accidental or intentional spilling, leaking, pumping, pouring, emitting, escaping, leaching, or dumping of hazardous substances or other pollutants into or on any land, air, water, or groundwater. A release shall not include a federal or state permitted release.

Reportable Quantity—that specific quantity associated with pollutants, as set forth in Subchapter E of this Chapter, the release of which requires notification pursuant to this regulation.

Reusable Material—any material defined in LAC 33:V.Chapter 49 of the hazardous waste regulations which would be classified as a hazardous waste except that it will be beneficially used, reused, or legitimately recycled, or reclaimed, unless exempted in LAC 33:V.Chapter 41 of the hazardous waste regulations.

Secretary—the secretary of the Department of Environmental Quality.

Site—the geographic location, other than a facility, of an unauthorized discharge.

Solid Waste—any garbage, refuse, sludge from a waste treatment plant, water supply treatment plant, or air pollution control facility, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations, and from community activities; but does not include or mean solid or dissolved material in domestic sewage or solid or dissolved materials in irrigation return flows or industrial discharges which are point sources subject to permits under R.S. 30:2074, or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, (42 U.S.C. 2011, et seq.) as amended, or hazardous waste subject to permits under R.S. 30:2171 et seq.

Solid Waste Facility—any land and appurtenances thereto used for storing, processing, and/or disposing of solid wastes.

Transport Vehicle—a motor vehicle, aircraft, rail freight car, freight container, cargo tank, portable tank, or vessel used for the transportation of hazardous substances or other pollutants. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

Transportation—the movement of solid, liquid, or hazardous reusable materials or wastes from the point of generation or storage to the point of treatment, storage, or disposal by any means of commercial or private transport. The term does not apply to the movement of hazardous wastes on the premises of a hazardous waste treatment, storage or disposal facility.

Treatment—any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any reusable material or waste so as to neutralize such reusable material or waste or render it nonhazardous, safer for transport, amenable for recovery or storage, or reduced in volume.

The term also includes any activity or processing designed to change the physical form or chemical composition of hazardous waste to render it nonhazardous.

Unauthorized Discharge—a continuous, intermittent, or one-time discharge, whether intentional or unintentional, anticipated or unanticipated, from any permitted or unpermitted source which is in contravention of any provision of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.) or of any permit or license terms and conditions, or of any applicable regulation, compliance schedule, variance, or exception of the administrative authority.

(*Discharge* is defined in this Section as the placing, releasing, spilling, percolating, draining, pumping, leaking, mixing, leaching, migrating, seeping, emitting, disposing, by-passing, or other escaping of pollutants on or into the air, waters, subsurface water or the ground.) A release shall not include a federal or state permitted release.

Vessel—any type of watercraft used, or capable of being used, as a means of transportation on the water.

Waste—any material for which no use or reuse is intended and which is to be discarded.

Waters of the State—both the surface and underground waters within the state of Louisiana including all rivers, streams, lakes, groundwaters, and all other water courses and waters within the confines of the state, and all bordering waters and the Gulf of Mexico.

§3907. Scope

- A. These regulations apply to all persons or parties, both permitted and unpermitted, licensed or unlicensed, who have responsibility for facilities, vessels, transport vehicles, or sites from which an unauthorized gaseous, liquid, semisolid, or solid discharge may be released on or into the air, water, or land environment within the boundaries of the state of Louisiana.

§3909. Enforcement

- A. Failure to comply with any of the provisions of these regulations constitutes a violation of the Louisiana Environmental Quality Act (R.S. 30:2001 et seq.). Each day of failure to give the required notification shall constitute a separate violation and shall be in addition to any other violations of the act.

§3911. Severability

- A. If any provision of these regulations or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications which can be given effect without the invalid provision or application, and to this end provisions of these regulations are declared to be severable.

§3913. Effective Date

- A. These regulations shall be in full force and effective 60 days after final publication in the *Louisiana Register*.

Subchapter B. Requirements for Emergency Notification

§3915. Notification Requirements for Unauthorized Discharges Which Cause Emergency Conditions

A. Notification to the DPS 24-Hour Louisiana Emergency Hazardous Materials Hotline

1. In the event of an unauthorized discharge that does cause an emergency condition, the discharger shall notify the hotline by telephone at (225) 925-6595 (collect calls accepted 24 hours a day) immediately (a reasonable period of time after taking prompt measures to determine the nature, quantity, and potential off-site impact of a release, considering the exigency of the circumstances), but in no case later than one hour after learning of the discharge.

(An emergency condition is any condition which could reasonably be expected to endanger the health and safety of the public, cause significant adverse impact to the land, water, or air environment, or cause severe damage to property.) Notification required by this Subsection will be made regardless of the amount of the discharge.

2. The hotline must be immediately notified of any adverse change in the nature or rate of the discharge. Notifications must be made for multiple discharges when they originate from different causes or sources or they are substantially different in nature.
3. One notification to the hotline for any unauthorized discharge will suffice for unauthorized discharges that continue for more than one day if the initial notification clearly states that the discharge is expected to continue for more than one day.
4. Dischargers are not relieved from any requisite written notification procedures in LAC 33:I.3925 or of any permit or license terms and conditions issued under the Louisiana Environmental Quality Act.

B. Notification to the Department of Environmental Quality.

In the event of an unauthorized discharge which requires notification under Subsection A of this Section, the DPS 24-hour Louisiana Emergency Hazardous Materials Hotline will notify the Department of Environmental Quality.

Subchapter C. Requirements for Prompt Notification

(Editor's Note: The telephone number for the Office of Environmental Compliance during office hours as cited in §3917.A.1 has changed to (225) 219-3640.)

§3917. Notification Requirements for Unauthorized Discharges Which Do Not Cause an Emergency Condition

- A. In the event of an unauthorized discharge which exceeds a reportable quantity specified in Subchapter E of this Chapter but which does not cause an emergency condition, the discharger shall notify the Office of Environmental Compliance by telephone within 24 hours after learning of the discharge. Notification should be made to the Office of Environmental Compliance at
 1. (225) 763-3908 during office hours;
 2. (225) 342-1234 after hours, weekends, and holidays;

3. or by e-mail utilizing the Incident Report Form and procedures found at www.deq.state.la.us/surveillance.

- B. Dischargers are not relieved from any requisite written notification procedures in LAC 33:I.3925 or of any permit or license terms and conditions issued under the Louisiana Environmental Quality Act.

§3919. Notification Requirements for Unauthorized Discharges with Groundwater Contamination Impact

- A. In the event that any unauthorized discharge results in the contamination of the groundwaters of the state or otherwise moves in, into, within, or on any saturated subsurface strata, the discharger shall notify the department in writing in accordance with LAC 33:I.3925 within seven calendar days after obtaining knowledge of groundwater contamination.

Subchapter D. Notification Procedures

§3923. Verbal Notification Procedures

- A. Telephone Notification Procedures.

Mobile or marine radio notifications should be directed to the nearest communication center or to a telephone center for forwarding of the notification by telephone.

- B. Information for Verbal Notifications.

The following guidelines will be utilized as appropriate, based on the conditions and circumstances surrounding any unauthorized discharge, to provide relevant information regarding the nature of the discharge:

1. name of person making the notification and telephone number where any return calls from response agencies can be placed;
2. name and location of facility or site where the unauthorized discharge is imminent or has occurred using common landmarks. In the event of an incident involving transport, include the name and address of transporter and generator;
3. date and time the incident began and ended, or estimated time of continuation if discharge is continuing;
4. extent of any injuries and identification of any known personnel hazards which response agencies may face;
5. common or scientific chemical name, U.S. Department of Transportation hazard classification, and best estimate of amounts of any or all discharged pollutants;
6. brief description of the incident sufficient to allow response agencies to formulate level and extent of response activity; and
7. for unauthorized emissions of toxic air pollutants listed in LAC 33:III.Chapter 51, Table 51.2 or 51.3 or radioactive material, the following supplemental information:
 - a. location of the source facility or stack;

- b. time at onset of the emission;
- c. prevailing local wind direction and estimated velocity at time of onset; and
- d. duration of emission if stopped at time of notification.

§3925. Written Notification Procedures for the Department of Environmental Quality

- A. Written reports for any unauthorized discharge that requires verbal notification under LAC 33:I.3915.A or 3917, or that requires written notification under LAC 33:I.3919, will be submitted by the discharger to the department in accordance with this Section within seven calendar days after the telephone notification required by LAC 33:I.3915.A or 3917, or within seven calendar days after obtaining knowledge of groundwater contamination as required by LAC 33:I.3919, unless otherwise provided for in a valid permit or other department regulation.
 - 1. If mailed by US mail or other courier service (e.g., Federal Express, UPS, etc.), the submittal date will be the date of the postmark on the envelope accompanying the written notification report.
 - 2. If delivered by other means (e.g., hand-delivered, faxed, etc.), the submittal date of the written notification will be the date of receipt by the department.
- B. Written notification reports will include, but are not limited to, the following information:
 - 1. name of person, company, or other party who is filing the written report;
 - 2. time and date of verbal notification, name of person making the notification, and identification of the site or facility, vessel, transport vehicle, or storage area from which the unauthorized discharge occurred;
 - 3. date(s), time(s), and duration of the unauthorized discharge and, if not corrected, the anticipated time it is expected to continue;
 - 4. details of the circumstances and events leading to any emergency condition, including incidents of loss of sources of radiation;
 - 5. common or scientific chemical name, the CAS number, U.S. Department of Transportation hazard classification, and best estimate of amounts of any or all discharged pollutants, including methodology for calculations and estimates;
 - 6. statement of actual or probable fate or disposition of the pollutant or source of radiation;
 - 7. remedial actions taken, or to be taken, to stop unauthorized discharges or to recover pollutants or sources of radiation;
 - 8. procedures or measures which have or will be adopted to prevent recurrence of the incident or similar incidents, including incidents of loss of sources of radiation;
 - 9. if an unpermitted or unlicensed site or facility is involved in the unauthorized discharge, a schedule for submitting a permit or license application to the department, or rationale for not requiring a permit or license;
 - 10. the reporting party's status (former or present owner, operator, disposer, etc.);

11. for discharges to the ground or groundwater, the following information shall also be included: all information of which the reporting party is aware that indicates pollutants are migrating, including, but not limited to, monitoring well data; possible routes of migrations; and all information of which the reporting party is aware regarding any public or private wells in the area of the migration used for drinking, stock watering, or irrigation;
 12. names of all other responsible parties of which the reporting party is aware; and
 13. a determination by the discharger of whether or not the discharge was preventable; if not, an explanation of why the discharge was not preventable.
- C. Written notification reports should be submitted to the Office of Environmental Compliance by mail or fax. The transmittal envelope and report or fax cover page and report should be clearly marked "UNAUTHORIZED DISCHARGE NOTIFICATION REPORT."

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3927. Determination and Use of Reportable Quantity

- A. The reportable quantity list in this Subchapter should be used to determine the need for and timeliness of notification to the department for unauthorized discharges which do not cause an emergency condition. This list is intended as a guide for the regulated community to reportable quantities of some of the more common pollutants.

Exclusion of a substance from this list does not relieve the discharger from the reporting requirements of this regulation or from those of other department regulations. Each discharge must be evaluated individually and reported appropriately by the discharger.

- B. The basis for determination of the reportable quantity for any pollutant in this Subchapter, unless otherwise noted, will be that quantity of the substance discharged continuously, intermittently, or as a one-time mass discharge within any continuous 24-hour period.
- C. The reportable quantity determined under this Subchapter, except where otherwise noted, will apply regardless of the environmental medium (land, air, water, groundwater) into which the pollutant is discharged.

§3929. Radionuclides: Notification of Incidents

- A. The reportable quantity for all radionuclides will be determined in accordance with the Louisiana Radiation Regulations, LAC 33:XV.Chapter 4.

§3931. Reportable Quantity List for Pollutants

- A. Incorporation by Reference of Federal Regulations.

Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

1. 40 CFR 117.3, July 1, 2002, Table 117.3— Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and
2. 40 CFR 302.4, July 1, 2002:
 - a. Table 302.4—List of Hazardous Substances and Reportable Quantities; and
 - b. Appendix A to §302.4—Sequential CAS Registry Number List of CERCLA Hazardous Substances.

B. Modifications or Additions.

The following table contains modifications to the federal reportable quantity lists incorporated by reference in Subsection A of this Section, as well as reportable quantities for additional pollutants.